



# PUBLIC NOTICE

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## FCC ENFORCEMENT ADVISORY

### PREPAID CALLING CARDS

#### ENFORCEMENT BUREAU PROPOSES SIGNIFICANT PENALTIES FOR DECEPTIVE MARKETING OF PREPAID CALLING CARDS; CONSUMERS ADVISED TO CAREFULLY REVIEW CARD ADVERTISEMENTS

Today, the Federal Communications Commission acted on four major investigations by the Enforcement Bureau involving companies that appear to have deceptively marketed prepaid calling cards, proposing substantial penalties of \$5 million per company. In these cases, the Commission found that the companies apparently marketed prepaid calling cards, primarily to immigrants, with claims that an inexpensive card would allow the buyer to make hundreds or even thousands of minutes of calls to foreign countries. It appears, however, that because the companies assessed multiple fees and surcharges, consumers might receive only a small fraction of the advertised minutes. We are issuing this enforcement advisory to alert companies that we are monitoring prepaid calling card practices, and will continue to take aggressive action against companies engaged in unfair and deceptive advertising to consumers. We also urge consumers to protect themselves by reviewing advertisements for prepaid calling cards carefully, including reading the fine print, to ensure that they understand what they are actually buying.

**What is a prepaid calling card?** Prepaid calling cards provide a specified amount of calling time, paid for in advance when the card is bought. The cards can be very convenient, generally allowing consumers to call family and friends inside or outside of the United States from any phone. The cards are typically sold in denominations of \$2, \$3, or \$5 at newsstands and in grocery and convenience stores, and are often advertised to consumers using posters displayed in retail locations.

**What statutory provision applies to the marketing of prepaid calling cards?** Section 201(b) of the Communications Act mandates that “[a]ll charges, practices, classifications, and regulations for and in connection with [interstate or foreign] communication service, shall be just and reasonable...”<sup>1</sup> The FCC has found companies liable for unfair and deceptive marketing as an “unjust and unreasonable practice” under section 201(b).<sup>2</sup>

Applying section 201(b) in today’s prepaid calling card cases, the FCC found that the companies involved apparently deceptively represented to buyers of their calling cards that they could use hundreds if not

<sup>1</sup> 47 U.S.C. § 201(b).

<sup>2</sup> See, e.g., *NOS Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 16 FCC Rcd 8133 (2001); *Business Discount Plan, Inc.*, Order of Forfeiture, 15 FCC Rcd 14461 (2000). See also *STi Telecom Inc.*, formerly *Epana Networks, Inc.*, FCC 11-129 (rel. September 1, 2011); *Locus Telecommunications, Inc.*, FCC 11-130 (rel. September 1, 2011); *Lyca Tel, LLC*, FCC 11-131 (rel. September 1, 2011); *Touch-Tel USA, LLC*, FCC 11-132 (rel. September 1, 2011).

thousands of minutes to make calls to foreign countries when, in fact, they could use only a fraction of those minutes because a variety of fees and surcharges quickly depleted the cards. The FCC found that the companies' disclosures about these fees contradicted the much more prominent claims in the marketing materials as to how many calling minutes were available on the cards. In addition, the companies' explanations of the range of fees and other terms and conditions were apparently so vague that it was difficult for a consumer to know, when purchasing the cards, what fees would apply or how the fees would impact the number of calling minutes actually received.

**What should consumers know when purchasing prepaid calling cards?** When consumers buy prepaid calling cards, they are paying in advance for an amount of telephone calling time. Some calling cards, however, come with fees that can significantly reduce the amount of calling time from the amount that is advertised. Because consumers pay for these cards in advance – usually at retail businesses that do not provide the phone service – it is critical that consumers carefully read the advertisements or other marketing materials, including any fine print on the packaging or the back of the card itself, so they are aware of fees associated with use of the card. These fees can include “post-call,” “disconnect,” and “hang-up” fees that are deducted from the card’s value each time the consumer hangs up the phone after using the card, or “maintenance” fees that are deducted shortly after the consumer uses the card and again at regular intervals. Consumers should also make sure they know whether the advertised minutes apply only if the card is used to make a single call, or whether the number of minutes advertised can instead be used over the course of multiple calls without any penalty. In addition, they should check to see if they will be charged for using a “toll-free access” number to place the call. Finally, prepaid calling cards often have expiration dates. Consumers should be sure to keep track of the date on which the card expires so that any unused minutes are not lost.

**What should businesses do to ensure they are in compliance?** Prepaid calling card companies should review section 201(b) of the Communications Act as well as today’s proposed forfeitures, cited above, as they relate to carriers’ advertising and marketing practices. We encourage companies to provide sufficient information about rates, fees, and the actual number of minutes available with their cards, clearly and conspicuously disclosed at the point of sale, to allow consumers to make an informed decision about the products they are purchasing. Businesses should consult their legal counsel on any questions pertaining to their particular operations. We expect this Advisory will lead to greater compliance with the Communications Act in the marketing of prepaid calling cards. At the same time, however, we emphasize that section 201(b) provides important consumer protections and that we will continue to strictly enforce it.

**What happens if companies do not comply with the law?** Failure to comply with the Communications Act may subject a company to severe penalties including, but not limited to, substantial monetary forfeitures.

**What can consumers do if they encounter a problem with their prepaid calling cards?**

Consumers should first contact their prepaid calling card service provider. If consumers are unsatisfied with their service provider’s response, we encourage them to contact the FCC at 1-888-CALL-FCC (1-888-225-5322) or to file a complaint online at [www.fcc.gov/complaints](http://www.fcc.gov/complaints).

**Need More Information?** For additional information, contact Richard A. Hindman of the Enforcement Bureau at 202-418-7320. Please direct media inquiries to David Fiske at 202-418-0513 or [david.fiske@fcc.gov](mailto:david.fiske@fcc.gov). For general information on the FCC, you can contact the FCC at 1-888-CALL-FCC (1-888-225-5322) or visit our website at [www.fcc.gov](http://www.fcc.gov).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY). You may also contact the Enforcement Bureau on its TTY line at 202-418-1148 for further information about this Enforcement Advisory, or the FCC on its TTY line at 1-888-Tell-FCC (1-888-835-5322).

Issued by: Chief, Enforcement Bureau